

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

UNITED STATES OF AMERICA,	§	
Plaintiff,	§	
v.	§	CIVIL NO. L-19-
	§	
ONE SMITH AND WESSON M&P RIFLE,	§	
SN: TJ16525;	§	
ONE SMITH AND WESSON SD9VE PISTOL,	§	
SN: FXA5467;	§	
ONE TAURUS G2S PISTOL, SN: TLS53978;	§	
14 ROUNDS WINCHESTER-WESTERN	§	
CAL: 9 AMMUNITION;	§	
6 ROUNDS CAL: 32 PMC AMMUNITION;	§	
187 ROUNDS CAL: 9 AMMUNITION;	§	
214 ROUNDS CAL: MULTI AMMUNITION;	§	
AND 1301 ROUNDS CAL: 223 AMMUNITION	§	
Defendants.	§	

VERIFIED COMPLAINT FOR FORFEITURE *IN REM*

Now comes the United States of America, Plaintiff in the above entitled and numbered cause, by and through Ryan K. Patrick, United States Attorney for the Southern District of Texas and its Assistant United States Attorney assigned to this matter, and files this Complaint for Forfeiture *in Rem* against a Smith and Wesson M&P Rifle, SN: TJ16525; Smith and Wesson SD9VE Pistol, SN: FXA5467; Taurus G2S Pistol, SN: TLS53978; 14 rounds of Winchester-Western cal: 9 ammunition; 6 rounds of cal: 32 PMC ammunition; 187 rounds of cal: 9 ammunition; 214 rounds of multi-caliber ammunition; and 1301 rounds of Cal:223 ammunition (hereinafter Defendant Firearms and Ammunition). The United States alleges the following:

NATURE OF THE ACTION

1. This is a Verified Complaint For Forfeiture *In Rem* brought pursuant to Title 18, United States Code §§ 922 (g)(9) and 924 (d). Section 922 (g)(9) makes it unlawful for any person “who has been convicted in any court of a misdemeanor crime of domestic violence, to possess in or

affecting commerce, any firearm or ammunition". The Defendant Firearms and Ammunition were possessed by a prohibited person as defined under Section 922 (g)(9) and are, therefore, subject to forfeiture under Title 18, United States Code § 924 (d).

JURISDICTION AND VENUE

2. Jurisdiction is conferred upon this Court by virtue of 28 U.S.C. §§ 1345 and 1355 (b). Upon the filing of this complaint, Plaintiff requests that the Clerk issue an arrest warrant *in rem* pursuant to Supplemental Rule G(3)(b), which the plaintiff will execute upon the property pursuant to 28 U.S.C. § 1355(d) and Supplemental Rule G(3)(c).
3. Venue is proper in this district pursuant to Title 28, United States Code, Sections 1355 and 1395 because the Defendant Firearms and Ammunition are now and will remain in the jurisdiction of this Court, in the custody of the Bureau of Alcohol, Tobacco Firearms and Explosives (ATF) during the pendency of this action.

FACTUAL BASIS FOR THE FORFEITURE

4. On or about about December 7, 2018, ATF special agents were notified that on November 21, 2018, Martin Castillo attempted to purchase the Defendant Taurus G2S 9mm pistol from Kirkpatrick Guns and Ammo in Laredo, Texas.¹ The purchase was delayed pending a National Instant Criminal Background Check System (NICS). Because NICS did not provide a response within three business days, on November 29, 2018, Martin Castillo was allowed to purchase the Defendant Taurus G2S 9mm pistol, serial number TLS53978. The NICS records check was subsequently received by Kirkpatrick Guns and Ammo and it was learned that Martin Castillo was a person prohibited from possessing a firearm because he had a misdemeanor conviction for domestic violence.

¹ Kirkpatrick Guns and Ammo is a federally licensed firearms dealer operating out of the Arena Gun Club in Laredo, Texas.

5. On November 30, 2017, Martin Castillo had purchased the Defendant Smith & Wesson, M&P Rifle, serial number TJ16525 from Kirkpatrick Guns and Ammo.

6. ATF Special Agent Marissa Perez confirmed that in 2001 Martin Castillo was convicted in Webb County Court of Law No. 1, cause number 2001CRB000807-L1, of assault causing bodily injury to a family member.

7. On January 9, 2019, ATF Special Agent Perez and ATF Task Force Officer Gerardo Morales spoke to Martin Castillo and his wife, Irma Canales, concerning his purchase of weapons and status as a prohibited person. Both Martin Castillo and his wife were unaware that his prior conviction for assault prohibited him from purchasing or possessing firearms and ammunition. He voluntarily surrendered the three Defendants Firearms and Ammunition which were located in his residence.

8. By reason of the foregoing, the Defendants Firearms and Ammunition are subject to an Order of Forfeiture to the United States of America.

NOTICE TO ANY POTENTIAL CLAIMANTS

YOU ARE HEREBY NOTIFIED that if you assert an interest in the Defendant Real Property which is subject to forfeiture and want to contest the forfeiture, you must file a verified claim which fulfills the requirements set forth in Rule G of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions. The verified claims must be filed no later than thirty-five (35) days from the date this Complaint has been sent in accordance with Rule G(4)(b).

An answer or motion under Rule 12 of the Federal Rules of Civil Procedure must be filed no later than twenty-one (21) days after filing the claim. The claim and answer must be filed with the United States District Clerk for the Southern District of Texas and a copy must be served upon the undersigned Assistant United States Attorney at the address provided in this Complaint.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for the following:

1. That Notice of Forfeiture issue according to the normal procedure of the Court citing all persons having an interest in the Defendants Firearms and Ammunition to appear on the return day of said process and make such Claim and Answer as they may have;
2. That Judgment of Forfeiture be decreed against the Defendants Firearms and Ammunition;
3. That, following a Judgment of Forfeiture, the Defendants Firearms and Ammunition be disposed of according to law; and
4. For costs of this action, including costs of seizure and for such additional relief which Plaintiff may show itself entitled.

Respectfully submitted,
RYAN K. PATRICK
UNITED STATES ATTORNEY

BY:

s/Mary Ellen Smyth
Mary Ellen Smyth, Assistant U.S. Attorney
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VERIFICATION

I, Marissa Perez, Special Agent with the Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives, in Laredo, Texas, declare under penalty of perjury that I am one of the agents responsible for the investigation concerning this litigation. I have read the above Complaint for forfeiture. Based upon my investigation, the information contained in the Complaint for Forfeiture, paragraphs 4 through 7, is true and correct to the best of my knowledge and belief.

Executed on this the 11th day of June, 2019.



Marissa Perez, Special Agent
Bureau of Alcohol, Tobacco, Firearms and Explosives

11th SUBSCRIBED and SWORN to before me the undersigned Notary Public on this the
day June, 2019.

12/14/2021
My Commission Expires



Alicia Laurel
Notary Public for the State of Texas



CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Verified Complaint for Forfeiture in Rem and Notice of Forfeiture was mailed via certified mail, return receipt requested to:

Mr. Martin Castillo and Mrs. Irma Canales
805 Independence Drive
Laredo, Texas 78043

s/ Mary Ellen Smyth
Mary Ellen Smyth
Assistant U.S. Attorney